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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,318	03/25/2004	Lester Mathews	56149/315991	8008

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EXAMINER	
FETSUGA, ROBERT M	
ART UNIT	**PAPER NUMBER**
3751	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/810,318	MATHEWS, LESTER	
	Examiner	Art Unit	
	Robert M. Fetsuga	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

4a) Of the above claim(s) *10,11,23 and 24* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9 and 12-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *03/25/04 & 05/13/04*
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-9 and 12-22, drawn to a cleaning system, classified in class 4, subclass 490.

II. Claims 10, 11, 23 and 24, drawn to a method for cleaning, classified in class 4, subclass 661.

The inventions are independent or distinct, each from the other because:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the product can be used in a process not requiring "locating" a cleaning head.

2. During a telephone conversation with Dean W. Russell on February 28, 2006 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-9 and 12-22. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10, 11, 23 and 24 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. The status of the parent application(s) should be updated.

4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "means" set forth in claims 1 and 12 could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

5. Claim 2 will be considered as depending from claim 1 in this Office action only. Correction is required.

6. The claim hierarchy does not appear to be in accordance with MPEP 608.01(m). Claims remaining at allowance may require renumbering.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-9, 12-14 and 16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker, Rule et al. and applicant's admitted prior art.

The Baker reference (Fig. 7) discloses a cleaning system comprising: a pump system including a suction inlet 92,98 and an outlet 96; a pool 90 including a return 91, and a bottom and two ends (illustrated); a connection (between 91 and 92); two cleaning heads 129,134; and means 103. Re claims 18 and 19, the choice of number of cleaning heads would appear an obvious choice to be made depending upon the size and shape of the pool. Therefore, Baker teaches all claimed elements except for a specified 180 deg. arc cleaning head.

Although the cleaning heads of the Baker pool system do not include a specified 180 deg. arc, as claimed, attention is directed to the Rule et al. (Rule) reference which discloses an analogous pool system which further includes cleaning heads 20

having a specified 180 deg. arc (col. 2 lns. 58-65). Therefore, in consideration of Rule, it would have been obvious to one of ordinary skill in the pool system art to associate a specified 180 deg. arc with the Baker cleaning heads in order to direct debris toward a drain. Re claim 13, an indexing cleaning head capable of being limited to a 180 deg. arc is well known in the indexing nozzle art as acknowledged by applicant as admitted prior art (apa) at page 8 of the instant specification. It would have been obvious to choose
such a cleaning head when implementing the teachings of Baker and Rule.

9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baker, Rule and apa as applied to claim 14 above, and further in view of Kenna et al.

Although the means of the Baker pool system does not include a programmable control, as claimed, attention is directed to the Kenna et al. (Kenna) reference which discloses an analogous pool system which further includes means 86 having a programmable control 104. Therefore, in consideration of Kenna, it would have been obvious to one of ordinary skill in the pool system art to associate a programmable control with the Baker means in order to facilitate pool cleaning.

10. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

11. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.

Robert M. Fetsuga
Primary Examiner
Art Unit 3751